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LLGS | LUKAS LAFURIA GUTIERREZ & SACHS LLP

March 5, 2019

FILED VIA ECFS

Marlene H. Dortch
Federal Communications Commission
445 12th Street, S.W., Room TW-B204
Washington, DC 20554

Re: *Ex Parte* Notification
WC Docket No. 13-39

Dear Ms. Dortch:

On March 4, 2019, Robert S. Koppel ("Koppel"), on behalf of several clients of Lukas, LaFuria, Gutierrez & Sachs, LLP ("LLGS") met with the following staff of the Wireline Competition Bureau: Pamela Arluk, Alex Espinosa, Heather Hendrickson (via phone), Zach Ross, and D'wana Terry. LLGS represents several clients who are U.S. long-distance service providers that hand-off 100% of the voice calls that they handle to foreign carriers for termination to destinations outside the United States.

Koppel requested that the Commission add language to the forthcoming Fourth Report and Order regarding rural call completion to clarify that that the Commission will not require the final "intermediate provider" in the United States to ensure that any additional, non-U.S. intermediate providers, are registered. Specific language is attached. Koppel emphasized that compliance with such a rule would be almost impossible, because foreign carriers with no operations in the United States will be unwilling to register with the Commission. Further, the Commission lacks jurisdiction over foreign carriers not operating in the United States.

As currently written, a U.S. international service provider handing off 100% of its traffic to a foreign carrier that has not registered would be violating the rules. Further, if asked by an upstream provider to ensure, or provide evidence, or sign a contract provision, that all calls are handed off to registered carriers, the U.S. international service provider would not be able to do so.

The Rural Call Completion Act and the Commission's rural call completion rules were never intended to apply to calls destined for termination outside the United States. Section 262(c)(2) of the Rural Call Completion Act specifically provides as follows (emphasis added):

REQUIREMENTS. In promulgating the rules required by paragraph (1), the Commission shall –

(A) Ensure the integrity of the transmission of covered voice communications to all customers in the United States; and

(B) Prevent unjust or unreasonable discrimination among areas of the United States in the delivery of voice communications.

The typical voice call path, where Company A is a U.S. international long-distance service provider that hands off 100% of its voice traffic to foreign carriers for termination to destinations outside the United States, is as follows:

- A U.S. originating carrier (*e.g.* a "covered provider") routes the call to an intermediate carrier, which could be Company A, or to one or more intermediate carriers who ultimately hand off the call to Company A.

- Company A then carries the call to the border, *e.g.* Canada, where it hands off the call to a Canadian carrier for termination in Canada. The foreign carrier often then hands off the call to another carrier prior to termination to the called party.

The definition of "intermediate provider" applies to "an end user connection using a [North American] numbering resource." The problem outlined above arises because North American numbering resources are also used in Canada, Mexico, and many Caribbean countries.

Under the existing and proposed rules, "intermediate providers" are subject to three additional requirements: (1) registration; (2) service quality standards; and (3) active monitoring of calls destined for rural areas. With regard to the registration requirement, Koppel recommended that within the on-line portal for registration, the Commission provide a box where the carrier can specify that 100% of its voice traffic will be handed off to a foreign carrier for termination outside the United States. Alternatively, a provider should be permitted to make a statement to this effect. By requiring registration, the Commission will still have a list of these service providers. Koppel noted that the service quality standards and active monitoring requirement appear be inapplicable to carriers that specify that 100% of their voice traffic will be handed off to a foreign carrier for termination outside the United States.

Please contact the undersigned if you have any questions.

Respectfully submitted,

Robert S. Koppel

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Attachment (draft language)
cc (w/ attachment): All meeting participants

Proposed Language Clarifying the Obligations of Certain "Intermediate Carriers"

Background:

The law firm of Lukas, LaFuria, Gutierrez & Sachs, LLP ("LLGS") on behalf of several firm clients [alternatively, the Commission, on its own motion], has requested that the Commission clarify the rules applicable to "intermediate carriers" that hand-off 100% of their voice traffic to foreign carriers for termination to destinations outside the United States. LLGS provided an example of the typical voice call path, where Company A is a service provider that hands-off 100% of its voice traffic to foreign carriers for termination outside the United States:

- A U.S. originating carrier (*e.g.* a "covered provider") routes the call to an intermediate carrier, which could be Company A, or to an intermediate carrier who then hands off the call to Company A.

- Company A then carries the call to the border, *e.g.* Canada, where it hands off the call to a Canadian carrier for termination in Canada. The foreign carrier often then hands off the call to another carrier prior to termination to the called party.

On its face, the definition of "intermediate carrier" would apply to Company A, because the call is destined to "an end user connection using a [North American] numbering resource." However, LLGS observes that Canada, Mexico, and many Caribbean countries use NANP resources.

Discussion:

We will not require "intermediate providers" that hand-off 100% of their voice traffic to foreign carriers for termination to destinations outside the United States to ensure that their foreign downstream providers register with the Commission. We will, however, expect such providers to register with the Commission [and to comply with the call quality standards and the active monitoring requirement].

Our interpretation is fully consistent with Section 262(c)(2) of the Rural Call Completion Act, which specifically provides as follows:

> REQUIREMENTS. In promulgating the rules required by paragraph (1), the Commission shall –
> (C) Ensure the integrity of the transmission of covered voice communications <u>to all customers in the United States</u>; and
> (D) Prevent unjust or unreasonable discrimination <u>among areas of the United States in the delivery</u> of voice communications.

Emphasis added.